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| 10/541,674 | 03/10/2006 | Kai Man Aman Chung | 0579-1100 | 4109 |
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| YOUNG & THOMPSON | | | BERNSTEIN, DANIEL A | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--|--|
| Office Action Summary | Application No. 10/541,674 | Applicant(s) CHUNG, KAI MAN AMAN |
| | Examiner DANIEL A. BERNSTEIN | Art Unit 4166 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 March 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 7/8/2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-165/08)
 Paper No(s)/Mail Date 7/8/2005
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Specification

1. Claim 12 objected to because of the following informalities: The phrase "a piezoelectric type lighter" is unclear. The word "type" should be omitted from the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12, 14-16 and 18-22 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,478,575 to Sher (Sher).

Sher teaches:

In Reference to claim 12

A piezoelectric type lighter comprising a flame-generation device (10 Fig. 7) which comprises a mechanism for releasing a jet of gas (lever 30) and a piezoelectric mechanism (5) for generating a spark, characterized in that the lighter comprises two actuators (41 and 71) able to make a pivoting movement under the action of a force (Fig. 7 shows 41 and 71 pivoting about 45) applied by a user between a first so-called resting position (Fig. 4 shows the lighter in the resting position) and a second so-called active position (Fig. 7 shows the lighter in the active position), at least one of said

actuators (either 41 or 71), referred to as the first actuator (41 or 71), being adapted to move independently of the second actuator (both 41 and 71 are capable of moving independently of each other) and to act on at least one of said mechanisms (30), referred to as the first mechanism, the lighter being adapted to generate a flame externally of the lighter when the two actuators have pivoted (Fig. 7 shows the actuators in the operating position).

In Reference to claim 14

A lighter according to claim 12 (see rejection of claim 12), characterized in that the first actuator (71) is adapted to act on one of the mechanisms (30), referred to as the first mechanism, and the second actuator (41) is adapted to act on the second mechanism (5).

In Reference to claim 15

A lighter according to claim 12 (see rejection of claim 12), characterized in that at the same longitudinal end of the lighter, each actuator comprises a cap (41 or 71) adapted to be subjected to a force applied by a user of the lighter and which is arranged such that the two caps are situated side by side (Fig.7 the side wall of 71 is situated beside the wall of 41).

In Reference to claim 16

A lighter according to claim 15 (see rejection of claim 15), characterized in that the cap of the second actuator (71), referred to as the second cap, comprises at least one portion which penetrates into a region of the cap of the first actuator (71), referred

to as the first cap, such that a force applied by a user in that region drives the two caps through a pivoting movement (when force is applied to cap 41, both caps 41 and 71 pivot around 45).

In Reference to claim 18

A lighter according to claim 15 (see rejection of claim 15), characterized in that the two caps (41 and 71) have bearing surfaces presented to a user which are arranged at different levels along the longitudinal direction of the lighter (cap 41 is arranged below cap 71), the bearing surface of the second cap (41) being arranged at a level below than that of the bearing surface of the first cap (71).

In Reference to claim 19

A lighter according to claim 12 (see rejection of claim 12), characterized in that one of the two actuators (41 or 71), in its resting position, covers a region of the lighter in which a flame is generated externally of the lighter when both mechanisms are activated (Fig. 4 shows both actuators 41 and 71 in the resting position in which they cover the region the flame is generated at nozzle 10).

In Reference to claim 20

A lighter according to claim 19 (see rejection of claim 19), characterized in that the actuator covering the region of the lighter in which a flame is generated is the second actuator (41, Fig. 4).

In Reference to claim 21

A lighter according to claim 12 (see rejection of claim 12), characterized in that the first actuator (71) is adapted to act on both the mechanisms and to generate a flame, the second actuator (41), in its resting position, covering a region of the lighter in which the flame is generated, thus preventing the latter from propagating externally of the lighter when the second actuator (41) has not pivoted.

In Reference to claim 22

A lighter according to claim 12 (see rejection of claim 12), characterized in that the first mechanism is the spark generation mechanism (5).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Sher in view of US Patent No. 6,135,761 to Chen.

In Reference to claim 13

Sher teaches a lighter according to claim 12 (see rejection of claim 12), characterized in that the second actuator, when it is displaced under the action of a

force applied by a user, is adapted to drive the first actuator through a pivoting movement along a given path, but does not teach two actuators being situated one behind the other on that path. Chen teaches that the two actuators being situated one behind the other on that path (see Fig. 2 of Chen, actuators 21 and 25).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the two actuators of Chen with the lighter arrangement of Sher to achieve the same function as disclosed by the applicant. Furthermore, it is well known in the art to have a lighter cap such as Chen where two actuators functioning as a safety mechanism are arranged side by side or "situated one behind the other". This common arrangement is obvious, because it enables the user to engage the safety mechanism and the lighter valve and piezoelectric ignition with one finger.

6. Claim 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Sher in view of US Patent No. 6,039,561 to Lei (Lei).

In Reference to claim 17

Sher teaches a lighter according to claim 16 (see rejection of claim 16), but does not teach a penetrating portion of the second cap (71) having a bearing surface which is not smooth.

Lei teaches the penetrating portion of the second cap (9, Fig. 1) has a bearing surface which is not smooth.

It have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the cap of Sher (71, Fig. 4) with the cap of Lei (9, Fig.1) so that Sher's cap would have a surface that is not smooth.

Furthermore, it is well known to apply a rough surface to a cap of a lighter so that the user can better grip the cap when the user is actuating the lighting mechanism. This would be beneficial to Sher, because the cap 71 would be easily held down in the actuating position as both 41 and 71 are pivoted as in Fig. 5.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No.'s 6,939,128, 6,135,761 and Patent Publication No.'s 2003/0013058, 2002/0115031 and 2002/0132201 all show aspects of the applicants claimed invention and are considered relevant art.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL A. BERNSTEIN whose telephone number is (571)270-5803. The examiner can normally be reached on Monday-Friday 8:00 AM - 5:00 PM EDT.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Bomberg can be reached on 571-272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DAB

/Kenneth Bomberg/
Supervisory Patent Examiner, Art Unit 4166